



W.P.(MD)No.18976 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18976 of 2023

P.Kelvin

...Petitioner

Vs.

1. The Commissioner of School Education,
School Education Department,
Chennai.
2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
3. The District Elementary Educational Officer,
O/o. District Elementary Educational Office,
Nagercoil,
Kanyakumari District.
4. The Block Educational Officer,
O/o. Block Educational Office,
Rajackamangalam Circle,
Kanyakumari District.
5. The Head Master,
Government Middle School,
Parakkai,
Rajackamangalam Taluk,
Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Na.Ka.No.6364/A1/2021, dated 25.07.2023 on the file of the second respondent and quash the same as arbitrary illegal, non-application of mind and against the existing facts and consequently directing the respondents 1 and 2 to grant compassionate appointment to the petitioner, based on his application dated 17.07.2013 following the death of the mother of the petitioner who was then working as Special Secondary Grade Teacher in the fifth respondents's school.

For Petitioner : Mr.T.Lajapathiroy
Senior Counsel
for Mrs.C.Bharathi

For Respondents : Mr.V.Omprakash
Government Advocate

ORDER

The present Writ Petition has been filed challenging the order passed by the second respondent herein, wherein, the request of the writ petitioner for compassionate appointment has been rejected.

2. According to the learned Senior Counsel appearing for the writ petitioner, the petitioner's mother was working as Special Secondary Grade



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Teacher in the fifth respondent's School and she died on 01.08.2010 while she was in service. At the relevant point of time, the petitioner was 15 years old and he made an application on 17.07.2013 within a period of three years to grant compassionate appointment. Since this application was not considered, the petitioner had filed a writ petition in W.P.(MD) No.5011 of 2023 seeking a mandamus to direct the respondents to grant compassionate appointment. This Court has allowed the writ petition on 31.03.2023 with an observations that the petitioner's application was within time and had directed the authorities to pass orders on the petitioner's representation on merits and in accordance with law within a period of eight weeks. Since the said order was not complied with, the petitioner has chosen to file a Contempt Petition in Cont.P.(MD) No.1474 of 2023. Immediately after filing the contempt petition, the present impugned order has been passed by the authorities rejecting the request for compassionate appointment on the ground that the father of the writ petitioner is working in a Hero Honda Showroom.

3. The learned Senior Counsel appearing for the writ petitioner had contended that his father, namely, R.Ponnappan, was not employed in Hero Honda Company at any point of time. He was doing odd jobs for the



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Company and he was liasoning with the RTO office. Now, he is aged about 65 years and he is not employed. In such circumstances, the observations made by the Tahsildar, in the Certificate dated 08.07.2014 cannot be relied upon for passing the order of impugned in the Writ petition.

4. Per contra, the learned Government Advocate appearing for the respondents had contended that as per G.O.Ms.No.33 of Labour Welfare and Skill Development (Q1) dated 08.03.2023 and as per Rule (3) (b) no member of the family shall be in regular employment in Government or any private enterprise and since the father of the writ petitioner is in regular employment in private enterprise, the order impugned in the writ petition may be sustained.

5. However, the learned Senior Counsel appearing for the petitioner has relied upon the Rule 3 (4), to point out that the employment on casual, adhoc or contracts basis, on daily wages or consolidated pay, will not disqualify any family member from getting appointment of compassionate basis.



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6. According to the learned Senior Counsel appearing for the writ petitioner, in the present case, the father of the writ petitioner was not employed on a regular basis. Except the fact that he was coordinating with Hero Honda Showroom with the R.T.O Office, at no point of time, he was regular in employment in Hero Honda Showroom.

7. In view of the above said contentions, this Court is of the considered opinion that the order impugned in the writ petition has been passed without verifying the present status of the father of the writ petitioner. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the second respondent herein. The second respondent shall verify the present status of the employment of the father of the writ petitioner, namely, R.Ponnappan and pass orders, in the light of G.O.(Ms) No.33 of Labour Welfare and Skill Development (Q1), dated 08.03.2023. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.



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8. With the above said observations, this Writ Petition stands allowed.

There shall be no order as to costs.

04.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR,J.

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